IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4819 OF 2005

Hiren Shantilal Dedhia. ... Applicant.
Versus.
Senior Inspector of Police
Ramnagar Police Station & anr. ... Respondents.

Shri Chari, Senior Advocate i/by M.Unnikrishnan for the Applicant.

Ms.M.M.Deshmukh, A.P.P. for the Respondents.

CORAM : ABHAY S. OKA, J.

DATED : 10th August, 2005.

P.C.:

1. Heard the learned Counsel for the Applicant and the learned A.P.P. for the State.

2. Offence has been registered against the Applicant and the co-accused under section 498A, 313, 406 and 34 of the Indian Penal Code. The Sessions Court has rejected the application filed by the Applicant. The learned Sessions Court has enlarged the father of the Applicant on bail.

3. The learned Counsel for the Applicant submitted that in so far as the offence under section 313 is concerned, there is a gross delay in filing the F.I.R. He submitted that the termination of pregnancy was made in a recognised hospital after obtaining consent of the Complainant i.e. wife of the Applicant. He submitted

that the termination of pregnancy was made on 6th August 2004 and the F.I.R. has been filed on 25th June 2005. He submitted that even the applicability of section 313 on the face of it is doubtful. He submitted that there is no material as regards commission of offence under section 498A. Lastly he submitted that the Applicant is in custody from 28th June 2005. He submitted that now the period of Police custody is already over and therefore, the Applicant need not be detained in custody.

4. The learned A.P.P. submitted that the investigation is still in progress. On instructions, the learned A.P.P. stated that the investigation will be completed within a period of 10 days from today. The statement is accepted.

5. The learned A.P.P. submitted that apart from the offence under section 313, there are serious allegations made by the Complainant against the Applicant as regards the commission of offence under section 498A of the IPC. The learned A.P.P. submitted that investigation is still in progress and if the Applicant is enlarged on bail, it will affect the investigation.

6. I have considered the submissions. A perusal of the F.I.R. and other material on record shows that the allegation against the Applicant is of commission of

offence under section 498A of the IPC. Considering the material collected in investigation which is produced for my perusal, I find substance in the submission of the learned A.P.P. that if the Applicant is enlarged on bail, it will affect the investigation. As far as the case of the prosecution under section 313 is concerned, there is some substance in the submission of the learned Counsel for the Applicant. There is a delay in filing the F.I.R. so far as the said offence is concerned.

7. Hence at this stage no case is made out for grant of bail as investigation is still in progress. The Applicant is rejected.

Judge.